

Mr. Carl Stenberg
Assistant Director
Advisory Commission on
Intergovernmental Relations
Washington, D.C. 20575

Dear Mr. Stenberg:

During the last several months, Commissioner Norton of EEOC, Assistant Secretary Ellisburg, Solicitor Clausa and Director Weldon Rougeau of the Labor Department, and Commissioner Sugarman of the Civil Service Commission and I, and the staffs of our agencies have been working to develop a set of guidelines on employee selection procedures which are consistent with standards of the psychological profession, which all the agencies can adopt to achieve uniformity; and which provide guidance to employers, labor organizations and employment agencies and adequate protection to blacks, Hispanics, and other minorities and women.

We are submitting copies of a draft set of proposed uniform guidelines on employee selection procedures (October 18, 1977 draft, as revised October 26, 1977). This draft represents the present views of those of us from the four agencies who have worked on this project.

As you know, the subject matter covered by these guidelines is one which has been of continuing interest to officials of State and local government. For that reason, our agencies have consulted with representatives of those officials both formally and informally during the process of developing this document; and intend to continue such consultations during the next three weeks. We are writing you at this time to request your assistance in broadening that process.

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Over the next four weeks, the guidelines will be subject to revision, final review and approval within our agencies. At the conclusion of that time, we contemplate publication of guidelines in the Federal Register for general public comment for a period of two months. We believe that OMB Circular A-85 and good government practice make it appropriate to obtain additional analysis and comment from appropriate officials of State and local government during this time period, while the documents are being reviewed within our various agencies.

With that thought in mind, we would appreciate it if you would arrange at the earliest possible moment to circulate the enclosed copies to such officials and ask them to submit any comments which they may have by November 23 to the undersigned at this address, Attention, David L. Rose, Employment Section. We would appreciate your inclusion in the list of those who receive the opportunity to submit such comments, organizations of State and local government officials involved in the personnel and civil service operations of State and local government, and State and local government officials involved in the enforcement at the State and local government level of anti-discrimination legislation.

Thank you for your cooperation in this matter.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

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UNIFORM GUIDELINES ON EMPLOYEE
SELECTION PRINCIPLES

I. GENERAL PRINCIPLES

§1 Statement of Purpose

a. The Federal government's need for a uniform set of principles on the question of the use of tests and other selection procedures has long been recognized. The Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Labor, the Department of Justice and the Department of the Treasury jointly have adopted these uniform guidelines to meet that need, and to apply the same principles to Federal government as are applied to other employers.

b. These guidelines incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of Federal law with respect to employment practices which discriminate on grounds of race, color, religion, sex and national origin. They are designed to provide a framework for determining the appropriate use of tests and other selection procedures. These guidelines do not require a user to conduct validity studies of selection procedures where no adverse impact results. However, all users are encouraged to use selection procedures which are valid, especially users operating under merit principles.

c. These guidelines are based upon, combine and supersede all previously issued guidelines on employee selection procedures. These guidelines have been built upon court decisions, the previously issued guidelines of the agencies and the practical experience of the agencies, as well as the standards of the psychological profession. These guidelines are intended to be consistent with existing law.

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§2 Scope

a. These guidelines will be applied by the Equal Employment Opportunity Commission in the enforcement of Title VII of the Civil Rights Act of 1964, as amended, by the Equal Employment Opportunity Act of 1972 (hereinafter "Title VII"), by the Department of Labor and the contract compliance agencies in the administration enforcement of Executive Order 11246, as amended by Executive Order 11375 (hereinafter "Executive Order 11246"); and by the Civil Service Commission and other federal agencies subject to Sec. 717 of Title VII, and by the Civil Service Commission in exercising its responsibilities toward state and local governments under Section 208(b) (1) of the Intergovernmental Personnel Act; by the Department of Justice in exercising its responsibilities under Federal law; by the Office of Revenue Sharing of the Department of the Treasury under the State and Local Fiscal Assistance Act of 1972, as amended, and by any other Federal agency which adopts them.

b. These guidelines apply to tests and other selection procedures which are used as a basis for any employment decision. Employment decisions include but are not limited to hire, promotion, demotion, membership (for example in a labor organization), referral, retention, licensing and certification, to the extent that licensing and certification may be covered by Federal equal employment opportunity law. Selection for training is also considered an employment decision if it leads to any of the decisions listed above.

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c. These guidelines apply only to selection procedures which are used as a basis for making employment decisions. For example, the use of recruiting procedures designed to attract racial, ethnic or sex groups which were previously denied employment opportunities or which are currently underutilized may be necessary to bring an employer into compliance with Federal law, and is frequently an essential element of any effective affirmative action program; but the subject of recruitment practices is not addressed by these guidelines because that subject concerns procedures other than selection procedures. Similarly, these guidelines do not pertain to the question of the lawfulness of a seniority system within the meaning of §703(h) of Title VII, or the question of the lawfulness of a seniority system under Executive Order 11246 or other provisions of Federal law or regulation, except to the extent that such systems utilize selection procedures to determine qualifications or abilities to perform the job.

d. These guidelines apply only to persons subject to Title VII, Executive Order 11246 or other equal employment opportunity requirements of Federal law. These guidelines do not apply to responsibilities under the Age Discrimination Act of 1975 not to discriminate on the basis of age, or under section 504 of the Rehabilitation Act of 1973 not to discriminate on the basis of handicap.

e. These guidelines do not restrict any obligation imposed or right granted by Federal law to users to extend a preference in employment to Indians living in or near an Indian reservation in connection with employment opportunities on or near an Indian reservation.

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§3 Discrimination Defined: Relationship between
Use of Selection Procedures and Discrimination

a. The use of any selection procedure which has an adverse impact on the hiring, promotion, transfer or other employment or membership opportunity of members of any racial, ethnic or sex group will be considered to be discriminatory and inconsistent with these guidelines, unless the procedure has been validated in accordance with these guidelines, or the provisions of §6 below are satisfied.

b. Where two or more selection procedures are available which are substantially equally valid for a given purpose, and thus equally serve the user's legitimate interests in the safe and efficient operation of the business, the user should use the procedure which has been demonstrated to have the lesser adverse impact. Accordingly, whenever a validity study is called for by these guidelines, the user should investigate suitable alternative selection procedures which have as little adverse impact as possible, to determine the appropriateness of using or validating them in accord with these guidelines. If a user has made a reasonable effort to become aware of such alternative procedures and a validity study for a job or group of jobs has been made and validity has been demonstrated in accord with these guidelines, the use of the test or other selection procedure may continue until such time as it should reasonably be reviewed for currency. Whenever the user is shown an alternative selection procedure with evidence of less adverse impact and substantial evidence of validity for the same job in similar circumstances, the user should investigate it to determine

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the appropriateness of using or validating it in accord with these guidelines. This subsection is not intended to preclude the combination of procedures into a significantly more valid procedure, if the use of such a combination has been shown to be in compliance with the guidelines.

§4 Information on Impact

a. Each user should maintain and have available for inspection records or other information which will disclose the impact which its tests and other selection procedures have upon employment opportunities of persons by identifiable racial, ethnic or sex groups as set forth in subparagraph b below in order to determine compliance with these guidelines.

b. Where there are large numbers of applicants and procedures are administered frequently, such information may be retained on a sample basis, provided that the sample is appropriate in terms of the applicant population and adequate in size. The records called for by this section are to be maintained by sex, and by racial and ethnic groups as follows: blacks (Negroes), American Indians (including Alaskan Natives), Asians (including Pacific islanders), Hispanic (including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin or culture regardless of race), whites (Caucasians) other than Hispanic and totals. The classifications called for by this section are intended to be consistent with the Employer Information (EEO-1 et seq.) series of reports. The user should adopt safeguards to insure that records of race, color, religion, sex, or national origin are used for appropriate purposes such as determining adverse impact, or (where required) for developing and monitoring affirmative action programs, and that such records are not used improperly. See §13B(4) below.

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c. If the information called for by §4a and b above shows that the total selection process for a job has no adverse impact, the federal enforcement agencies will not expect a user to evaluate the individual components for adverse impact, or to validate such individual components, and will not take enforcement action based upon adverse impact of any component of that process, including the separate parts of a multi part selection procedure and the separate procedures that are used as alternative methods of selection.

If a total selection process does have an adverse impact, the individual components of the selection process should be evaluated for adverse impact.

d. A selection rate for any racial, ethnic or sex group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact. Smaller differences in selection rate may nevertheless constitute adverse impact, where they are significant in both statistical and practical terms. Greater differences in selection rate may not constitute adverse impact where the differences are based on small numbers and are not statistically significant, or where special recruiting or other programs cause the pool of minority or female candidates to be atypical of the normal pool of applicants from that group. Where the user's evidence concerning the impact of a selection procedure indicates adverse impact but is based upon numbers which are too small to be reliable, evidence concerning the impact of the procedure over a longer period of time and/or

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evidence concerning the impact which the selection procedure when used in the same manner in similar circumstances elsewhere may be considered in determining adverse impact. Where the user has not maintained data on adverse impact as called for by these guidelines, the Federal enforcement agencies may draw an inference of adverse impact of the selection process from the failure of the user to maintain such data, if the user has an underutilization of a group in the job category, as compared to the group's representation in the applicable workforce.

e. In carrying out their obligations, the Federal enforcement agencies will consider the general posture of the user with respect to equal employment opportunity for the job classification or group of classifications in question. Where a user has adopted an affirmative action program the Federal enforcement agencies will consider the provisions of that program, including the goals and timetables which the user has adopted and the progress which the user has made in carrying out that program and in meeting the goals and timetables. While such affirmative action programs may in design and execution be race, color, sex or ethnic conscious, they should not require the selection of the unqualified or the unneeded, nor the selection of persons on the basis of race, color, religion, sex or national origin.

§5 General Standards for Validity Studies

a. For the purposes of satisfying these guidelines users may rely upon criterion related validity studies, content validity studies or construct validity studies, in accordance with the standards set forth in Part II of these guidelines, §14 below.

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b. Evidence of the validity of a test or other selection procedure by a criterion related validity study should consist of empirical data demonstrating that the selection procedure is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job for which the candidates are to be evaluated. See §14B, below. Evidence of the validity of a test or other selection procedure by a content validity study should consist of data showing that the selection procedure is a representative sample of important work behaviors to be performed on the job for which the candidates are to be evaluated. See §14C, below. Evidence of the validity of a test or other selection procedure through a construct validity study should consist of data showing that the procedure measures the degree to which candidates have identifiable characteristics which have been determined to be important in successful performance in the job for which the candidates are to be evaluated. See §14D below.

c. These guidelines are intended to be consistent with generally accepted professional standards for evaluating standardized tests and other selection procedures, such as those described in the Standards for Educational and Psychological Tests prepared by a joint committee of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education (American Psychological Association, Washington, D.C. 1974) (hereinafter "APA Standards"), and standard text books and journals in the field of personnel selection.

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d. For any selection procedure which is part of a selection process which has an adverse impact and which selection procedure has an adverse impact, each user should maintain and have available such documentation as is described in Part III of these guidelines, §15, below.

e. Selection procedures subject to validity studies under §3a above should be administered and scored under standardized conditions.

f. In general, users should avoid making employment decisions on the basis of measures of knowledges, skills or abilities which are normally learned in a brief orientation period, and which have an adverse impact.

g. Where cut off scores are used, they should normally be set so as to be reasonable and consistent with normal expectations of acceptable proficiency within the work force. Where other factors are used in determining cut off scores, such as the relationship between the number of vacancies and the number of applicants, the degree of adverse impact should be considered.

h. If job progression structures are so established that employees will probably, within a reasonable period of time and in a majority of cases progress to a higher level, it may be considered that the candidates are being evaluated job or jobs at the higher level. However, where job progression is not so nearly automatic, or the time span is such that higher level jobs or employees potential may be expected to change in significant ways, it should be considered that employees are being evaluated for a job at or near the entry level. A "reasonable period of time" will vary for different jobs and employment situations but will seldom be more than five years.

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Evaluation for a higher level job would not be appropriate (1) if the majority of those remaining employed do not progress to the higher level job, (2) if there is a reason to doubt that the higher level job will continue to require essentially similar skills during the progression period, (3) if knowledges, skills or abilities required for advancement would be expected to develop principally from the training or experience on the job; or (4) if the pool of remaining employees reflects a systematic disproportionate screening out of any racial, sex or ethnic group from among those persons originally hired.

i. Users may continue the use of a selection procedure which is not at the moment fully supported by the required evidence of validity, provided: (1) the user can cite substantial evidence of validity in accord with these guidelines and (2) the user has in progress, when technically feasible, studies which are designed to produce the additional data required within a reasonable time.

If the additional studies do not demonstrate validity, this provision of these guidelines for interim use shall not constitute a defense in any action, nor shall it relieve the user of any obligations arising under federal law.

j. Whenever validity has been shown in accord with these guidelines for the use of a particular selection procedure for a job or group of jobs, additional studies need not be performed until such time as the validity study is subject to review as provided in §3b above. There are no absolutes in the area of determining the currency of a validity study. All circumstances concerning the study, including the validation strategy used, and changes in the relevant labor market and the

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job should be considered in the determination of when a validity study is outdated.

§6 Modification of Selection Procedures

There are circumstances in which a user cannot or need not utilize the validation techniques contemplated by these guidelines. In such circumstances, the user should utilize selection procedures which are as job related as possible and which will minimize or eliminate adverse impact, as set forth below. (i) When an unstandardized, informal or unscored selection procedure which has an adverse impact is utilized, the user should seek to eliminate the adverse impact, or, if feasible, to modify the procedure to one which is a formal, scored or quantified measure or combination of measures and then to validate the procedure in accord with these guidelines, or otherwise to justify continued use of the procedure in accord with Federal law. (ii) When a standardized, formal or scored selection procedure is used which has an adverse impact, the validation techniques contemplated by these guidelines usually should be followed if technically feasible. Where the user cannot or need not do so, the user should either modify the procedure to eliminate the adverse impact or otherwise justify continued use of the procedure in accord with Federal law.

§7 Use of Other Validity Studies

a. Users may, under certain circumstances, support the use of selection procedures by validity studies conducted by other users or conducted by test publishers or distributors and described in test manuals. Users are cautioned that, while publishers of selection procedures have a professional obligation to provide

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evidence of validity which meets acceptable standards

(see, for example, the APA Standards), users are cautioned that they are responsible for compliance with these guidelines. Accordingly, users seeking to obtain selection procedures from publishers and distributors should be careful to determine that, in the event the user becomes subject to the validity requirements of these guidelines, the necessary information to support validity has been determined and will be made available to the user.

b. Criterion-related validity studies conducted by one test user, or described in test manuals and the professional literature, will be considered acceptable for use by another user when: (1) evidence from the available studies meeting the standards of §14B below clearly demonstrates that the selection procedure is valid; (2) the studies pertain to a job the incumbents of which perform substantially the same major behaviors as shown by appropriate job analyses both on at least one job on which the validity study was performed and the job on which the selection procedure is to be used; and (3) the studies include a study of test fairness for those racial, ethnic and sex subgroups which constitute significant factors in the borrowing user's relevant labor market for the job or jobs in question. If the studies under consideration satisfy (1) and (2) above but do not contain an investigation of test fairness, and it is not technically feasible for the borrowing user to conduct an internal study of test fairness, the borrowing user may utilize the study until studies conducted elsewhere show test unfairness, or until such time as it becomes technically feasible to conduct an internal study of test fairness and the results of that study can be acted upon. Users obtaining selection

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procedures from publishers should consider, as one factor in the decision to purchase a particular selection procedure, the availability of evidence concerning test fairness.

c. If there are variables in the other studies which are likely to affect validity significantly, and it is not feasible to conduct an internal validity study, the user may not rely upon such studies, but will be expected to comply with §6 above.

§8 Cooperative Studies

a. The agencies issuing these guidelines encourage employers, labor organizations and employment agencies to cooperate in research, development, search for alternatives, and validity studies in order to achieve procedures which are consistent with these guidelines.

b. If validity evidence from a cooperative study satisfies the requirements of §7 above, evidence of validity specific to each user will not be required unless there are variables in the user's situation which are likely to affect validity significantly.

§9 No Assumption of Validity

a. Under no circumstances will the general reputation of a test or other selection procedure, its author or its publisher, or casual reports of its validity be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on a procedure's name or descriptive labels; all forms of promotional literature; data bearing on the frequency of a procedure's usage; testimonial statements and credentials of sellers, users, or consultants; and other non-empirical or anecdotal accounts of selection practices or selection outcomes.

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is encouraged but is not a substitute for documented evidence of validity. The enforcement agencies will take into account the fact that a thorough job analysis was conducted and that careful development and use of a selection procedure in accordance with professional standards enhance the probability that the selection procedure is valid for the job.

§10 Employment agencies and employment services

a. An employment agency, including private employment agencies and State employment agencies, which agrees to a request by an employer or labor organization to devise and utilize a selection procedure should follow the standards in these guidelines for determining adverse impact. If adverse impact exists the agency should comply with these guidelines. An employment agency is not relieved of its obligation herein because the user did not request such validation or has requested the use of some lesser standard of validation than is provided in these guidelines. The use of an employment agency does not relieve an employer or labor organization or other user of its responsibilities under Federal law to provide equal employment opportunity or its obligations as a user under these guidelines.

b. Where an employment agency or service is requested to administer a selection program which has been devised elsewhere and to make referrals pursuant to the results, the employment agency or service shall obtain evidence of the absence of adverse impact, or of compliance with these guidelines, before it administers the selection program and makes referrals pursuant to the results. The employment agency must furnish on request such evidence of validity. An employment agency or service which makes referrals based on the selection

procedure where the employer or labor organization does not supply satisfactory evidence of validity or lack of adverse impact is not in compliance with these guidelines.

§11 Disparate treatment

The principle of disparate or unequal treatment must be distinguished from the concepts of validation. A selection procedure--even though validated against job performance in accordance with the guidelines in this part--cannot be imposed upon members of a racial, sex or ethnic group where other employees, applicants, or members have not been subjected to that standard. Disparate treatment occurs where members of a racial, sex, or ethnic group have been denied the same employment, promotion, transfer or membership opportunities as have been made available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, the persons who were in the class of persons discriminated against during the period the user followed the discriminatory practices should be allowed the opportunity to qualify under the less stringent selection procedures previously followed, unless the user demonstrates that the increased standards are required for the safety or efficiency of the operation. This section does not prohibit a user who has not previously followed merit standards from adopting merit standards which are in compliance with these guidelines; nor does it preclude a user who has previously used invalid or unvalidated selection procedures from developing

guidelines.

§12 Retesting

Users should provide a reasonable opportunity for retesting and reconsideration. The user may however take reasonable steps to preserve the security of its procedures. Where examinations are administered periodically with public notice, such reasonable opportunity exists, unless persons who have previously been tested are precluded from retesting.

§13 Affirmative Action

A. The use of selection procedures which have been validated pursuant to these guidelines does not relieve users of any obligations they may have to undertake affirmative action to assure equal employment opportunity. Nothing in these guidelines is intended to preclude the use of selection procedures which assist in remedying the effects of prior discriminatory practices, or the achievement of affirmative action objectives.

B. These guidelines are also intended to encourage the adoption and implementation of voluntary affirmative action programs by users who have no obligation under Federal law to adopt them; but are not intended to impose any new obligations in that regard. The agencies issuing and endorsing these guidelines endorse and reaffirm, both for private employers or governmental employers, the Equal Employment Opportunity Coordinating Council's "Policy Statement on Affirmative Action Programs for State and Local Government Agencies, (41 Federal Register 38814 Sept. 13, 1976). That statement did not attempt to set forth either the minimum or maximum voluntary steps that employers may take nor did it attempt to deal with remedies imposed after a finding of discrimination. That statement also was not designed to supercede or replace existing or later developed affirmative action

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requirements imposed under E.O. 11246 or other provisions of Federal law.

The major sections of the Policy Statement include the following:

* * *

(2) Voluntary affirmative action to assure equal employment opportunity is appropriate at any stage of the employment process. The first step in the construction of any affirmative action plan should be an analysis of the employer's work force to determine whether percentages of sex, race or ethnic groups in individual job classifications are substantially similar to the percentages of those groups available in the relevant job market who possess the basic job related qualifications.

When substantial disparities are found through such analyses, each element of the overall selection process should be examined to determine which elements operate to exclude persons on the basis of sex, race, or ethnic group. Such elements include, but are not limited to, recruitment, testing, ranking certification, interview, recommendations for selection, hiring, promotion, etc. The examination of each element of the selection process should at a minimum include a determination of its validity in predicting job performance.

(3) When an employer has reason to believe that its selection procedures have the exclusionary effect described...of that statement above,

it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex or ethnic "conscious," include, but are not limited to, the following:

(a) The establishment of a long term goal, and short range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market;

(b) A recruitment program designed to attract qualified members of the group in question.

(c) A systematic effort to organize work and re-design jobs in ways that provide opportunities for persons lacking "journeyman" level knowledge or skills to enter and, with appropriate training, to progress in a career field;

(d) Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

(e) The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from which the selecting official makes the selection;

(f) A systematic effort to provide career advancement training, both classroom

and on-the-job, to employees looked into dead end jobs; and

(g) The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.

(4) The goal of any affirmative action plan should be achievement of genuine equal employment opportunity for all qualified persons. Selection under such plans should be based upon the ability of the applicant(s) to do the work. Such plans should not require the selection of the unqualified, or the unneeded, nor should they require the selection of persons on the basis of race, color, sex, religion or national origin.

PART II TECHNICAL STANDARDS

§14 Technical Standards for Validity Studies

The following minimum standards, as applicable, should be met in conducting a validity study. Nothing in these guidelines is intended to preclude the development and use of other professionally acceptable techniques with respect to validation of selection procedures. Where it is not technically feasible for a user to conduct a validity study, the user has the obligation otherwise to comply with these guidelines. See §§ 6 and 7 above.

A. JOB INFORMATION

(1) Any validity study should be based upon a review of information about the job for which the

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selection procedure is to be used. The review should include a job analysis except as provided in §14B(3) below with respect to criterion related validity. Any method of job analysis may be used if it provides the information required for the specific validation strategy used.

B. CRITERION-RELATED VALIDITY

(1) Users choosing to validate a selection procedure by a criterion-related validity strategy should determine whether it is technically feasible (as defined in Part IV) to conduct such a study in the particular employment context. The determination of the number of persons necessary to permit the conduct of a meaningful criterion-related study should be made by the user on the basis of all relevant information concerning the selection procedure, the potential sample and the employment situation. Where appropriate, jobs with substantially the same major work behaviors may be grouped together for validity studies, in order to obtain an adequate sample. These guidelines do not require a user to hire or promote persons for the purpose of making it possible to conduct a criterion-related study.

(2) There should be a review of job information to determine measures of work behaviors or performance that are relevant to the job in question. These measures or criteria are relevant to the extent that they represent critical or important job duties, work behaviors or work outcomes as developed from the review of job information. The possibility of bias should be considered both in selection of the measures and their application. In view of the possibility of bias in subjective evaluations, supervisory rating techniques should be carefully developed; and the

ratings should be examined for evidence of racial, ethnic or sex bias. All criteria need to be examined for freedom from factors which would unfairly alter scores of members of any group. The relevance of criteria and their freedom from bias are of particular concern when there are significant differences in measures of job performance for different groups.

(3) Proper safeguards should be taken to insure that scores on selection procedures do not enter into any judgments of employee adequacy that are to be used as criterion measures. Criteria may consist of measures other than work proficiency including, but not limited to length of service, regularity of attendance, training time or properly measured success in training which is necessary for or related to success in actual job performance. Measures of training success based upon pencil and paper tests will be closely reviewed for job relevance. Whatever criteria are used should represent important or critical work behaviors or work outcomes. Job behaviors including but not limited to production rate, error rate, tardiness, absenteeism and turnover, may be used as criteria without a full job analysis if the user can show the importance of the criterion to the particular employment context. A standardized rating of overall work performance may be utilized where a study of the job shows that it is an appropriate criterion.

(4) Whether the study is predictive or concurrent, the sample subjects should insofar as feasible be representative of the candidates normally available in the relevant labor market for the job or jobs in question, and should insofar as feasible include the racial,

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ethnic and sex groups normally available in the relevant job market. Where samples are combined or compared, attention should be given to see that such samples are comparable in terms of the actual job they perform, the length of time on the job where time on the job is likely to affect performance and other relevant factors likely to affect validity differences; or that these factors are included in the design of the study and their effects identified.

(5) The degree of relationship between selection procedure scores and criterion measures should be examined and computed, using professionally acceptable statistical procedures. Generally, a selection procedure is considered related to the criterion, for the purposes of these guidelines, when the relationship between performance on the procedure and performance on the criterion measure is statistically significant at the .05 level of significance, which means that it is sufficiently high as to have a probability of no more than one (1) in twenty (20) to have occurred by chance. Absence of a statistically significant relationship between a selection procedure and job performance should not necessarily discourage other investigations of the validity of that selection procedure.

Users should evaluate each selection procedure to assure that it is appropriate for operational use. Generally, if other factors remain the same, the greater the magnitude of the relationship (e.g., correlation coefficient) between performance on a selection procedure and one or more criteria of performance on the job, and the greater the importance or number of aspects of job performance covered by the criteria, the more likely it is that the procedure will be appropriate for use. Reliance upon a selection procedure which is significantly related to a criterion measure, but which is based upon

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a study involving a large number of subjects and has a low correlation coefficient will be subject to close review if it has a large adverse impact. Sole reliance upon a single selection instrument which is related to only one of many job duties or aspects of job performance will also be subject to close review. The appropriateness of a selection procedure is best evaluated in each particular situation and there are no minimum correlation coefficients applicable to all employment situations. In determining whether a selection procedure is appropriate for operational use the following considerations should also be taken into account: the degree of adverse impact of the procedure, the availability of other selection procedures of greater or substantially equal validity.

(6) Users should avoid reliance upon techniques which tend to overestimate validity findings as a result of capitalization on chance unless an appropriate safeguard is taken. Reliance upon a few selection procedures or criteria of successful job performance, when many selection procedures or criteria of performance have been studied, or the use of optimal statistical weights for selection procedures computed in one sample, are techniques which tend to inflate validity estimates as a result of chance. Use of a large sample is one safeguard; cross-validation is another.

(7) Fairness of the Selection Procedure

This section generally call for studies of unfairness where technically feasible. The concept of fairness or unfairness of selection procedures is a developing concept, however. In addition, fairness studies generally require substantial numbers of employees in the job or group of jobs being studied. For these reasons, the Federal enforcement agencies recognize that the

obligation to conduct studies of unfairness imposed by the guidelines generally will be upon large users, consortia of smaller users, or test developers; and that small users utilizing their own selection procedures will generally not be obliged to conduct such studies because it will be technically infeasible for them to do so.

i. When members of one racial, ethnic, or sex group characteristically obtain lower scores on a selection procedure than members of another group, and the differences are not reflected in differences in measures of job performance, use of the selection procedure may unfairly deny opportunities to members of the group that obtains the lower scores.

ii. Where a selection procedure results in an adverse impact on a racial, ethnic or sex group identified in accordance with the classifications set forth in §4 above and that group is a significant factor in the relevant labor market, the user generally should investigate the possible existence of unfairness for that group if it is technically feasible to do so.

The greater the severity of the adverse impact on a group, the greater the need to investigate the possible existence of unfairness. Where the weight of evidence from other studies shows that the selection procedure is a fair predictor for the group in question and for the same or similar jobs, such evidence may be relied on in connection with the selection procedure at issue and may be combined with data from

the present study; however, where the severity of adverse impact on a group is significantly greater than in the other studies referred to, a user may not rely on such other studies.

iii. Users conducting a study of fairness should review the APA Standards regarding investigation of possible bias in testing. An investigation of fairness of a selection procedure depends on both evidence of validity and the manner in which the selection procedure is to be used in a particular employment context. Fairness of a selection procedure cannot necessarily be specified in advance without investigating these factors. Investigation of fairness of a selection procedure in samples where the range of scores on selection procedures or criterion measures is severely restricted for any subgroup sample (as compared to other subgroup samples) may produce misleading evidence of unfairness. That factor should accordingly be taken into account in conducting such studies and before reliance is placed on the results.

iv. If unfairness is demonstrated through a showing that members of a particular group perform better or poorer on the job than their scores on the selection procedure would indicate through comparison with how members of other groups perform, the user may either revise or replace the selection instrument in accordance with these guidelines, or may continue to use the selection instrument operationally with appropriate revisions in its use to assure compatibility between

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the probability of successful job performance and the probability of being selected.

v. In addition to the general conditions needed for technical feasibility for the conduct of a criterion-related study (see §15(j), below) an investigation of fairness requires the following:

(1) a sufficient number of persons in each group for findings of statistical significance. These guidelines do not require a user to hire or promote persons on the basis of group classifications for the purpose of making it possible to conduct a study of fairness; but the user has the obligation otherwise to comply with these guidelines.

(2) The samples for each group should be comparable in terms of the actual job they perform, length of time on the job where time on the job is likely to affect performance, and other relevant factors likely to affect validity differences; or such factors should be included in the design of the study and their effects identified..

vi. If a study of fairness should otherwise be performed, but is not technically feasible, the use of a selection procedure which has otherwise met the validity standards of these guidelines may be used unless the technical infeasibility resulted from discriminatory employment practices which are demonstrated by facts other than past failure to conform with requirements for validation of selection

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procedures. However, when it becomes technically feasible for the user to perform a study of fairness and such a study is otherwise called for, the user should conduct the study of fairness.

C. CONTENT VALIDITY

(1) There should be a definition of a performance domain or the performance domains with respect to the job in question. Performance domains should be defined through job analysis which includes an analysis of the work behaviors or activities. Pooled judgments of persons having knowledge of the job may be used to supplement, but not as a substitute for a job analysis. Performance domains should be defined on the basis of competent information about job tasks and responsibilities. Performance domains include critical or important work behaviors, work products, work activities, or the knowledges, skills or abilities shown to be necessary for performance of the duties, behaviors, activities or the production of work. Where a performance domain has been defined as a knowledge, skill or ability, that knowledge, skill or ability must be used in job behavior. A selection procedure based on inferences about psychological processes cannot be supported by content validity alone. Thus content validity by itself is not an appropriate validation strategy for intelligence, aptitude, personality or interest tests. Content validity is also not an appropriate strategy when the selection procedure involves knowledges, skills or abilities which an employee will be expected to learn on the job.

(2) If a user can show, by a job analysis or otherwise, that a higher score on a content valid selection procedure can be expected to result in better job performance, the results may be used to rank persons who score above minimum levels. Where a selection procedure supported solely by content validity is used to

rank job candidates, the performance domain should include those aspects of performance which differentiate among levels of job performance.

(3) A selection procedure which is a representative sample of a performance domain of the job as defined in accordance with subsection (1) above, is a content valid procedure for that domain. Where the domain or domains measured are critical to the job, or constitute a substantial proportion of the job, the selection procedure will be considered to be content valid for the job. Such selection procedures may be developed specifically from the performance domain, or may have been previously developed by the user or by other users. The reliability of selection procedures justified on the basis of content validity should be a matter of concern to the user. Whenever it is feasible to do so, appropriate statistical estimates should be made of the reliability of the selection procedures.

(4) A demonstration of the relationship between the content of the selection procedure and the performance domain of the job is critical to content validity. Content validity may be shown if the knowledges, skills or abilities demonstrated in and measured by the selection procedure are substantially the same as the knowledges, skills or abilities shown to be necessary for job performance. The closer the content of the selection procedure is to actual work samples, behaviors or activities, the stronger is the basis for showing content validity. The need for careful documentation of the relationship between the performance domain of the selection procedure and that of the job increases as the content of the selection procedure less resembles that of the job performance domain.

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(5) A requirement for specific prior training or for work experience based on content validity, including a specification of level or amount of training or experience, should be justified on the basis of the relationship between the content of the training or experience and the performance domain of the job for which the training or experience is to be required.

(6) If a selection procedure is supported solely on the basis of content validity, it may be used operationally if it represents a critical performance domain (i.e., a performance domain or domains which is or are necessary for performance of the job), or performance domains which constitute most of the important parts of the job.

D. CONSTRUCT VALIDITY. Construct validity is a more complex strategy than either criterion-related or content validity, and is a new and developing procedure in the employment field. Accordingly, users choosing to validate a selection procedure by use of this strategy should be careful to follow professionally accepted standards, such as those contained in the APA Standards and the standard text books and journals.

(1) There should be a job analysis. This job analysis should result in a determination of the constructs that underlie successful performance of the important or critical duties of the job.

(2) A selection procedure should be selected or developed which measures the construct(s) identified in accord with subparagraph (1) above.

(3) A selection procedure may be used operationally if the standards of subparagraphs (1) and (2) are met and there is sufficient empirical research evidence showing that the procedure is validly related to performance of critical job duties. Normally, sufficient empirical research evidence should take the form

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of one or more criterion related validity studies meeting the requirements of §13B. See also second sentence of §13.

(4) Transportability. Where a construct validity study satisfies the standards of 1), 2) and 3) above it may be used operationally for other jobs, subject to the conditions set forth below, if the study meets professionally accepted standards for generalizing validity to such other jobs.

Construct validity is a new and developing procedure in the employment field. Therefore, a user planning to transport construct validity should institute alternative selection procedures to eliminate those adverse effects which the use of construct valid selection procedures may have on any job or group of jobs. These alternatives should achieve sustained progress toward the total elimination of adverse impact in a period of not more than five years from the effective date of these guidelines. The transported examination may not be used after that period unless the adverse impact has been eliminated.

Examples of alternative procedures include, but are not limited to: (a) those set forth in the affirmative action provisions of Section 13B; (b) Measures of superior scholarship; cultural, language or experience factors; selected use of established registers; selection from a pool of economically disadvantaged persons who have demonstrated their general competency; random selection from a pool of qualified applicants; use of qualified trainee registers limited to economically disadvantaged persons.

PART III
DOCUMENTATION OF VALIDITY EVIDENCE

§15a. For each selection procedure having an adverse impact of a total selection process which has an adverse

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impact (see §4 above) the user should maintain and have available the data on which the adverse impact determination was made and one of the following types of documentation evidence:

(1) Documentation evidence showing criterion related validity of the selection procedure (see §15b, below).

(2) Documentation evidence showing content validity of the selection procedure (see §15c, below).

(3) Documentation evidence showing construct validity of the selection procedure (see §15d, below).

(4) Documentation evidence from other studies showing validity of the selection procedure in the user's facility (see §15e, below).

(5) Documentation evidence showing what steps were taken to reduce or eliminate adverse impact, why validation cannot or need not be performed and why continued use of the procedure is consistent with Federal law.

This evidence should be compiled in a reasonably complete and organized manner to permit direct evaluation of the validity of the selection procedure. Previously written employer or consultant reports of validity are acceptable if they are complete in regard to the following documentation requirements, or if they satisfied requirements of guidelines which were in effect when the study was completed. If they are not complete, the required additional documentation should be appended. If necessary information is not available the report of the validity study may still be used as documentation, but its adequacy will be evaluated in terms of compliance with the requirements of these guidelines.

In the event that evidence of validity is reviewed by an enforcement agency, the reports completed after

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the effective date of these guidelines are expected to use one of the formats set forth below. Evidence denoted by use of the word "(ESSENTIAL)" is considered critical and reports not containing such information will be considered incomplete. Evidence not so denoted is desirable, but its absence will not be a basis for considering a report incomplete.

b. Criterion-related validity. Reports of criterion-related validity of selection procedures are to contain the following information:

(1) User(s), and Location(s) and Date(s) of Study. Dates of administration of selection procedures and collection of criterion data and, where appropriate, the time between collection of data on selection procedures and criterion measures should be shown (ESSENTIAL). If the study was conducted at several locations, the address of each location, including city and state, should be shown.

(2) Problem and Setting. An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cut-off scores, if any, should be provided.

(3) Review of Job Information or Job Analysis. Where a review of job information results in criteria which are measures other than work proficiency (see §14B(3)), the basis for the selection of these criteria should be reported (ESSENTIAL). Where a job analysis is required, the report should include either: (a) the important duties performed on the job and the basis on which such duties were determined to be important, such as the proportion of time spent on the respective duties, their level of difficulty,

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their frequency of performance, the consequences of error, or other appropriate factors; or (b) the knowleges, skills, abilities and/or other worker characteristics and bases on which they were determined to be important for job performance (ESSENTIAL). Published descriptions from industry sources or Volume I of the Dictionary of Occupational Titles Third Edition, United States Government Printing Office, 1965, are satisfactory if they adequately and completely describe the job. If appropriate, a brief supplement to the published description should be provided.

If two or more jobs are grouped for a validity study, a justification for this grouping, as well as a description of each of the jobs, should be provided (ESSENTIAL).

(4) Job Titles and Codes. It is desirable to provide the user's job title(s) for the job(s) in question and the corresponding job title(s) and code(s) from United States Employment Service Dictionary of Occupational Titles Volumes I & II. Where standard titles and codes do not exist, a notation to that effect should be made.

(5) Criteria. A full description of all criteria on which data were collected, including a rationale for selection of the final criteria, and means by which they were observed, recorded, evaluated and quantified, should be provided (ESSENTIAL). If rating techniques are used as criterion measures the appraisal form(s) and instructions to the rater(s) should be included as part of the validation evidence (ESSENTIAL).

(6) Sample. A description of how the research sample was selected should be included (ESSENTIAL). The racial, ethnic and sex composition of the sample should be described, including the size of each subgroup (ESSENTIAL). Racial and ethnic classifications should be those

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set forth in §4a above. A description of how the research sample compares with the racial, ethnic and sex composition of the relevant labor market is also desirable. Where data are available, the racial, ethnic and sex composition of current applicants should also be described. Descriptions of educational levels, length of service, and age are also desirable.

(7) Selection Procedure. Any measure, combination of measures, or procedures used as a basis for employment decisions should be completely and explicitly described or attached (ESSENTIAL). If commercially available selection procedures are used, they should be described by title, form, and publisher (ESSENTIAL). Reports of reliability estimates and how they were established are desirable. A rationale for choosing the selection procedures investigated in the study should be included.

(8) Techniques and Results. Methods used in analyzing data should be described (ESSENTIAL). Measures of central tendency (e.g., means) and measures of dispersion (e.g., standard deviations and ranges) for all selection procedures and all criteria should be reported for all relevant racial, ethnic and sex subgroups (ESSENTIAL). Statistical results should be organized and presented in tabular or graphical form, by racial, ethnic and/or sex subgroups (ESSENTIAL). All selection procedure-criterion relationships investigated should be reported, including their magnitudes and directions (ESSENTIAL). Statements regarding the statistical significance of results should be made (ESSENTIAL).

Any statistical adjustments, such as for less than perfect reliability or for restriction of score range in the selection procedure or criterion, or both, should be described; and uncorrected correlation coefficients

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should also be shown (ESSENTIAL). Where the statistical technique used categorizes continuous data, such as bi-serial correlation and the phi coefficient, the categories and the bases on which they were determined should be described (ESSENTIAL). Studies of test fairness should be included where called for by the requirements of §14B(7) (ESSENTIAL). These studies should include the rationale by which a selection procedure was determined to be fair to the group(s) in question. Where test fairness has been demonstrated on the basis of other studies, a bibliography of the relevant studies should be included (ESSENTIAL). If the bibliography includes unpublished studies, copies of these studies, or adequate abstracts or summaries, should be attached (ESSENTIAL). Where revisions have been made in a selection procedure to assure compatibility between successful job performance and the probability of being selected, the studies underlying such revisions should be included (ESSENTIAL).

(9) Uses and Applications. A description of the way in which each selection procedure is to be used (e.g., as a screening device with a cut-off score or combined with other procedures in a battery) and application of the procedure (e.g., selection, transfer, promotion) should be provided (ESSENTIAL). If weights are assigned to different parts of the selection procedure, these weights and the validity of the weighted composite should be reported (ESSENTIAL).

(10) Cut-off Scores. Where cut-off scores are to be used, both the cut-off scores and the way in which they were determined should be described (ESSENTIAL).

(11) Source Data. Each user should maintain records showing all pertinent information about individual sample members in studies involving the validation of selection procedures. These records (exclusive of names and

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social security number) should be made available upon request of a compliance agency. These data should include selection procedure scores, criterion scores, age, sex, minority group status, and experience on the specific job on which the validation study was conducted and may also include such things as education, training, and prior job experience. If the user chooses to include, along with a report on validation, a worksheet showing the pertinent information about the individual sample members, specific identifying information such as name and social security number should not be shown. Inclusion of the worksheet with the validity report is encouraged in order to avoid delays.

(12) Contact Person. It is desirable for the user to set forth the name, mailing address, and telephone number of the individual who may be contacted for further information about the validity study.

c. Content Validity. Reports of content validity of selection procedures are to contain the following information:

(1) Definition of Performance Domain. A complete and comprehensive definition of the performance domain(s) in the job should be provided (ESSENTIAL). A full description of the analysis of the work behaviors or activities should be provided (ESSENTIAL). The methods used to select the performance domain(s) for measurement and the rationale for the selection should be completely and explicitly described (ESSENTIAL). The methods and rationale used for measurement of those domains should also be completely and explicitly described (ESSENTIAL). The evidence supporting the critically and/or importance of the performance domain(s) selected for measurement should be described (ESSENTIAL). Where the performance domains are defined in terms of behaviors or activities,

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such evidence may consist of the proportion of time spent on each behavior or activity, their level of difficulty, their frequency, consequences of error, and/or other appropriate factors (ESSENTIAL). Where the performance domains are defined in terms of knowledges, skills or abilities, there should be an operational definition of each knowledge, skill or ability, a complete description of its relationship to each job behavior or activity, and evidence supporting the criticality and/or importance of each job behavior or activity, as described in the preceding sentence (ESSENTIAL). If judgments of experts have been used to supplement the job analysis, the qualifications of these experts should be described (ESSENTIAL).

(2) Job Title and Code. It is desirable to provide the user's job title(s) and the corresponding

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job title(s) and code(s) from the United States Employment Service Dictionary of Occupational Titles Volumes I & II. Where standard titles and codes do not exist, a notation to that effect should be made.

(3) Selection Procedures. Selection procedures including those constructed by or for the user, specific training requirements, composites of selection procedures, and any other procedure for which content validity is asserted should be completely and explicitly described or attached (ESSENTIAL). If commercially available selection procedures are used, they should be described by title, form, and publisher (ESSENTIAL). Where the performance domain is defined in terms of knowledges, skills or abilities, evidence that the selection procedure measures those knowledges, skills or abilities should be provided (ESSENTIAL).

(4) Techniques and Results. The method by which the correspondence between the content of the selection procedure and the job performance domain(s) was established and the relative emphasis given to various aspects of the content of the selection procedure as derived from the performance domain(s) should be described (ESSENTIAL). If any steps were taken to reduce adverse racial, ethnic, or sex impact in the content of the procedure or in its administration, these steps should be described. Establishment of time limits, if any, and how these limits are related to the speed with which duties must be performed on the job, should be explained. The adequacy of the sample coverage of the performance domain should be described as precisely as possible. Measures of central tendency (e.g., means) and measures of dispersion (e.g., standard deviations) should be reported for all selection procedures as appropriate. Such reports

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should be made for all relevant racial, ethnic, and sex subgroups, at least on a statistically reliable sample basis.

(5) Uses and Applications. A description of the way in which each selection procedure is to be used (e.g., as a screening device with a cut-off score or combined with other procedures in a battery) and the application of the procedure (e.g., selection, transfer, promotion) should be provided (ESSENTIAL).

(6) Cut-off Scores. The rationale for minimum scores, if used, should be provided (ESSENTIAL). If the selection procedure is used to rank individuals above minimum levels, or if preference is given to individuals who score significantly above the minimum levels, a rationale for this procedure should be provided (ESSENTIAL).

(7) Contact person. It is desirable for the employer to set forth the name, mailing address and telephone number of the individual who may be contacted for further information about the validation study.

d. Construct Validity. Reports of construct validity of selection procedures are to contain the following information:

(1) Construct Definition. A clear definition of the construct should be provided, explained in terms of empirically observable behavior, including levels of construct performance relevant to the job(s) for which the selection procedure is to be used (ESSENTIAL).

(2) Job Analysis. The job analysis should show how the constructs underlying successful job performance of important or critical duties were determined (ESSENTIAL). The job analysis should provide evidence of the linkage between the construct and the important duties of the job and how this linkage was determined (ESSENTIAL).

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(3) Job Titles and Codes. It is desirable to provide the selection procedure user's job title(s) for the job(s) in question and the corresponding job title(s) and code(s) from the United States Employment Service Dictionary of Occupational Titles, Volumes I and II. Where standard titles and codes do not exist, a notation to that effect should be made.

(4) Selection Procedure. The selection procedure used as a measure of the construct should be completely and explicitly described or attached (ESSENTIAL). If commercially available selection procedures are used, they should be identified by title, form and publisher (ESSENTIAL). The evidence demonstrating that the selection procedure is in fact a proper measure of the construct should be included (ESSENTIAL). Reports of reliability estimates and how they were established are desirable.

(5) Anchoring. The empirical evidence showing that performance on the selection procedure is validly related to performance of critical job duties should be included (ESSENTIAL).

(6) Uses and Applications. A description of the way in which each selection procedure is to be used (e.g., as a screening device with a cut-off score or combined with other procedures in a battery) and application of the procedure (e.g., selection, transfer, promotion) should be provided (ESSENTIAL). If weights are assigned to different parts of the selection procedure, these weights (and the validity of the weighted composite) should be reported (ESSENTIAL).

(7) Cut-off Scores. Where cut-off scores are to be used, both the cut-off scores and the way in which they were determined should be described (ESSENTIAL).

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(8) Source Data. Each user should maintain records showing all pertinent information about individual sample members in studies involving the validation of selection procedures. These records (exclusive of names and social security number) should be made available upon request of a compliance agency. These data should include selection procedure scores, criterion scores, age, sex, minority group status, and experience on the specific job on which the validation study was conducted and may also include such things as education, training, and prior job experience. If the user chooses to include, along with a report on validation, a worksheet showing the pertinent information about the individual sample members, specific identifying information such as name and social security number should not be shown. Inclusion of the worksheet with the validity report is encouraged in order to avoid delays.

(9) Contact Person. It is desirable for the user to set forth the name, mailing address, and telephone number of the individual who may be contacted for further information about the validity study.

e. Evidence of Validity from other Studies. When validity of a selection procedure is supported by studies not done by the user, the evidence from the original study or studies should be compiled in a manner similar to that required in the appropriate section of this §13 above. In addition, the following evidence should be supplied:

(1) Evidence from Criterion-related Validity Studies

(i) Job Information. A description of the important duties of the user's job and the basis on which the duties were determined to be important should be provided (ESSENTIAL). A full description of the basis for determining that these

important job duties are sufficiently similar to the duties of the job in the original study (or studies) to warrant use of the selection procedure in the new situation should be provided (ESSENTIAL).

(ii) Relevance of Criteria. A full description of the basis on which the criteria used in the original studies are determined to be relevant for the user should be provided (ESSENTIAL).

(iii) Other Variables. The similarity of important applicant pool/sample characteristics reported in the original studies to those of the user should be described (ESSENTIAL). A description of the comparison between the race and sex composition of the user's relevant labor market and the sample in the original validity studies should be provided (ESSENTIAL).

(iv) Use of the Selection Procedure. A full description should be provided showing that the use to be made of the selection procedure is consistent with the findings of the original validity studies (ESSENTIAL).

(v) Bibliography. A bibliography of reports of validity of the selection procedure for the job or jobs in question should be provided (ESSENTIAL). Where any of the studies included an investigation of test fairness, the results of this investigation should be provided (ESSENTIAL). Copies of reports published in journals that are not commonly available should be described in detail or attached (ESSENTIAL). Where a user is relying upon unpublished studies, a reasonable effort should be made to obtain these studies. If these unpublished studies are the sole source of validity evidence they should be described in detail or attached (ESSENTIAL).

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If these studies are not available, the name and address of the source, an adequate abstract or summary of the validity study and data, and a contact person in the source organization should be provided (ESSENTIAL).

(2) Evidence from Content Validity Studies
Similarity of Performance Domains.

A full description should be provided of the similarity between the performance domain in the user's job and the performance domain measured by a selection procedure developed and shown to be content valid by another user (ESSENTIAL). The basis for determining this similarity should be explicitly described (ESSENTIAL).

(3) Evidence from Construct Validity Studies

(i) A full description should be provided of the basis for determining that the validity study meets professionally accepted standards for generalizing validity to the other jobs (ESSENTIAL).

(ii) A complete description should be provided of the alternative procedures; how these procedures are to be used; the estimated adverse impact of the overall selection process (involving both use of the selection procedure which is under consideration to be transported, and the alternative procedures); a set of yearly estimates of the amount of sustained progress toward eliminating the adverse impact in a period of not more than 5 years; the basis or rationale for these estimates; and annual statements of the progress made and any corrective action to be taken (ESSENTIAL).

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PART IV - DEFINITIONS

§16 The following definitions shall apply throughout these guidelines:

(a) Ability: The present observable competence to perform a function.

(b) Adverse Impact: See §4 of these guidelines.

(c) Content validity: Demonstrated by data showing that a selection procedure is a representative sample of important work behaviors to be performed on the job. See §5b and §14C.

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(d) Construct validity: Demonstrated by data showing that the selection procedure measures the degree to which candidates have identifiable characteristics which have been determined to be important for successful job performance. See §5b and §14D.

(e) Criterion-related validity: Demonstrated by empirical data showing that the selection procedure is predictive of or significantly correlated with important elements of work behavior. See §5b and §14B.

(f) Employer: Any employer subject to the provisions of the Civil Rights Act of 1964, as amended, including state or local governments and any Federal agency subject to the provisions of Sec. 717 of the Civil Rights Act of 1964, as amended, and any Federal contractor or subcontractor or federally assisted construction contractor or subcontractor covered by Executive Order 11246, as amended.

(g) Employment agency: Any employment agency subject to the provisions of the Civil Rights Act of 1964, as amended.

(h) Enforcement agency: Any agency of the executive branch of the Federal Government which adopts these guidelines for purposes of the enforcement of the equal employment opportunity laws or which has responsibility for securing compliance with them.

(i) Labor organization: Any labor organization subject to the provisions of the Civil Rights Act of 1964, as amended, and any committee subject thereto controlling apprenticeship or other training.

(j) Racial, sex or ethnic group: Any group of persons identifiable on the grounds of race, color, religion, sex or national origin.

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(k) Selection procedure: Any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques from traditional paper and pencil tests, performance tests, training programs or probationary periods and physical, educational and work experience requirements through informal or casual interviews and unscored application forms.

(l) Selection Rate - The proportion of applicants or candidates who are hired, promoted or otherwise selected.

(m) Technical feasibility: The existence of conditions permitting the conduct of meaningful criterion related validity studies. These conditions include: (a) an adequate sample of persons available for the study to achieve findings of statistical significance; (b) having or being able to obtain a sufficient range of scores on the selection procedure and job performance measures to produce validity results which can be expected to be representative of the results if the ranges normally expected were utilized; and (c) having or being able to devise unbiased, reliable and relevant measures of job performance or other criteria of employee adequacy. See §14B(1). With respect to investigation of possible unfairness, the same considerations are applicable to each group for which the study is made. See §14B(7).

(n) Unfairness of Selection Procedure (differential prediction): A condition in which members of one racial, ethnic, or sex group characteristically obtain lower scores on a selection procedure than members of another group, and the differences are not reflected in difference in measures of job performance. See §14B(7)

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(o) User: Any employer, labor organization, employment agency, or licensing or certification board, to the extent it may be covered by Federal equal employment opportunity law which uses a selection procedure as a basis for any employment decision. Whenever an employer, labor organization, or employment agency is required by law to restrict recruitment for any occupation to those applicants who have met licensing or certification requirements, the licensing or certifying authority to the extent it may be covered by Federal equal employment opportunity law will be considered the user with respect to those licensing or certification requirements. Whenever a state employment agency or service does no more than administer or monitor a procedure as permitted by Department of Labor regulations, and does so without making referrals or taking any other action on the basis of the results, the state employment agency will not be deemed to be a user.